

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN JIM PETERSON**, on February 18, 2005 at 3:00 P.M., in Room 152 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Jim Peterson, Chairman (R)  
Rep. Christopher Harris, Vice Chairman (D)  
Rep. John (Jack) W. Ross, Vice Chairman (R)  
Rep. Debby Barrett (R)  
Rep. Paul Clark (D)  
Rep. Sue Dickenson (D)  
Rep. George Everett (R)  
Rep. Kevin T. Furey (D)  
Rep. Gail Gutsche (D)  
Rep. Ralph Heinert (R)  
Rep. Llew Jones (R)  
Rep. Mike Jopek (D)  
Rep. Carol Lambert (R)  
Rep. Rick Maedje (R)  
Rep. Veronica Small-Eastman (D)  
Rep. David E. Wanzenried (D)

**Members Excused:** None.

**Members Absent:** Rep. Norma Bixby (D)  
Rep. Dee L. Brown (R)

**Staff Present:** Joe Kolman, Legislative Branch  
Debra Polhemus, Committee Secretary

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

**Committee Business Summary:**

Hearing & Date Posted: HB 609, 2/11/2005; HB 622,  
2/11/2005; HB 666, 2/11/2005; HB  
675, 2/14/2005; HB 698, 2/14/2005;  
HB 700, 2/14/2005; HB 714,  
2/15/2005  
Executive Action: HB 714; HB 700; HB 609; HB 622;  
HB 666; HB 675; HB 698; HB 591  
HB 69; HB 353; HB 470; HB 582  
HB 581; HB 453

**HEARING ON HB 698**

**Opening Statement by Sponsor:**

00:04:05 REP. MICHAEL LANGE (R), HD 55, opened the hearing  
on HB 698, Warm water fishery enhancement program.

**Proponents' Testimony:**

00:06:51 Bob Gilbert, Executive Director, Walleyes  
Unlimited of Montana

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

00:07:31 REP. FUREY  
00:08:21 REP. ROSS  
00:08:57 CHAIRMAN PETERSON

**Closing by Sponsor:**

00:09:16 REP. MICHAEL LANGE (R), HD 55 closed the hearing  
on HB 698.

**HEARING ON HB 622**

**Opening Statement by Sponsor:**

00:11:28 REP. EDWARD BUTCHER (R), HD 29, opened the hearing  
on HB 622, Revise requirements for private water  
distribution system.

**Proponents' Testimony:**

00:16:52 Paul Tesarek, Coffee Creek, runs small water  
system  
00:19:26 Charles Hartmann, Coffee Creek resident  
00:20:07 Rod Bolling, Denton, Coffee Creek resident  
00:20:48 Richard Cupps, Coffee Creek resident  
00:21:08 Henry Nimik, Coffee Creek resident  
00:22:09 Richard Wilson, Coffee Creek resident

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**Opponents' Testimony:**

00:22:44 Jack Fallon, Flathead County Water District  
00:24:03 Linda Stoll, Montana Local Health Officers Group  
00:25:17 Tammy McGill, President, Montana Association of  
Planners  
00:26:10 Frank Crowley, Helena attorney, representing  
Mountain Water Company, Missoula

**EXHIBIT (nah40a01)**

00:29:18 Steve Wade, Mountain Rural Water

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**Informational Testimony:**

00:29:50 John Dilliard, Montana Department of Environmental  
Quality

**EXHIBIT (nah40a02)**

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**Questions from Committee Members and Responses:**

00:31:00 REP. HARRIS  
00:36:18 REP. FUREY  
00:37:21 REP. EVERETT

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**Closing by Sponsor:**

00:39:12 REP. EDWARD BUTCHER (R), HD 29 closed the hearing  
on HB 622.

**HEARING ON HB 609**

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**Opening Statement by Sponsor:**

00:44:28 REP. JANNA TAYLOR (R), HD 11, opened the hearing  
on HB 609, Loser pays in water rights litigation.

**EXHIBIT (nah40a03)**

**Proponents' Testimony:**

00:47:21 Jack Stults, Department of Natural Resources and  
Conservation  
00:49:42 Tim Hall, Attorney, Department of Natural  
Resources and Conservation  
00:51:26 Holly Franz, representing Upper Clark Fork Basin  
Steering Committee  
00:52:14 Mick Seeburg, Founding Director, Association of  
Gallatin Irrigators (AGAI)  
00:53:03 Sarah Carlson, Montana Association of Conservation  
Districts

**Opponents' Testimony:**

00:53:30 John Bloomquist, Helena attorney representing  
Montana Stockgrowers Association  
00:55:19 John Youngberg, Montana Farm Bureau Federation  
00:55:51 Mike Murphy, Montana Water Resources Association

**Informational Testimony:**

00:56:26 Brenda Hall, Tongue River Water Users Association

**Questions from Committee Members and Responses:**

00:57:15 REP. DICKENSON  
00:58:47 REP. JOPEK

**Closing by Sponsor:**

00:59:51 REP. JANNA TAYLOR (R), HD 11 closed the hearing on  
HB 609.

**HEARING ON HB 666**

**Opening Statement by Sponsor:**

01:02:44 REP. BOB BERGREN (D), HD 33, opened the hearing on  
HB 666, Revise laws related to county water and  
sewer districts.

**Proponents' Testimony:**

01:03:53 Steve Wade, Montana Rural Water Systems  
**EXHIBIT (nah40a04)**  
 01:05:06 Dan Semmens, Bond Attorney, Dorsey & Whitney Law Firm, Missoula  
 01:09:10 Gary Forrester, resident of Lockwood, Montana Contractors Association  
 01:09:40 Rick Russell, Manager, Lockwood Water and Sewer District

**EXHIBIT (nah40a05)**

01:12:42 Carl Peters, Chairman, Lockwood Water and Sewer District  
 01:14:07 Charles Brooks, Billings, speaking for Board of County Commissioners  
 01:14:35 Jack Fallon, Flathead County Water District  
 01:16:18 Anna Miller, Department of Natural Resources and Water Conservation  
 01:17:19 Nancy Belk, Lockwood resident and business owner

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

01:18:08 REP. HARRIS  
 01:23:25 REP. ROSS

**Closing by Sponsor:**

01:29:50 REP. BOB BERGREN (D), HD 33, closed the hearing on HB 666.

**HEARING ON HB 700**

**Opening Statement by Sponsor:**

01:31:13 REP. SCOTT MENDENHALL (R), HD 77, opened the hearing on HB 700, Revise allocation and use of metal mines license tax.

**EXHIBIT (nah40a06)**

**EXHIBIT (nah40a07)**

**Proponents' Testimony:**

01:43:30 L. Harold Blattie, Montana Association of Counties  
**EXHIBIT (nah40a08)**  
 01:45:43 Dave Coleman, Butte-Silver Bow County Commissioner  
 01:46:03 Maureen Davey, Stillwater County Commissioner  
**EXHIBIT (nah40a09)**  
 01:46:53 Elaine Allestad, Sweet Grass County Commissioner

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**Opponents' Testimony:** None.

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**Informational Testimony:** None.

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**Questions from Committee Members and Responses:**

01:47:57      **REP. JOPEK**  
01:48:41      **REP. GUTSCHE**  
01:49:21      **REP. LAMBERT**

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**Closing by Sponsor:**

01:50:50      **REP. SCOTT MENDENHALL (R), HD 77**, closed the hearing on **HB 700**.

**HEARING ON HB 714**

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**Opening Statement by Sponsor:**

01:52:04      **REP. SCOTT MENDENHALL (R), HD 77**, opened the hearing on **HB 714**, Allow subdivider to donate land to homeowner association.

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**Proponents' Testimony:** None.

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**Opponents' Testimony:**

01:56:32      Tammy McGill, President, Montana Association of Planners

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**Informational Testimony:** None.

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**Questions from Committee Members and Responses:**

02:01:30      **REP. BROWN**  
02:02:52      **REP. ROSS**  
02:04:46      **REP. GUTSCHE**  
02:06:54      **CHAIRMAN PETERSON**

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**Closing by Sponsor:**

02:07:34      **REP. SCOTT MENDENHALL (R), HD 77** closed the hearing on **HB 714**.

**HEARING ON HB 675**

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**Opening Statement by Sponsor:**

02:08:11      **REP. RICK MAEDJE (R), HD 2**, opened the hearing on **HB 675**, Clarify conservation easement laws.

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**Proponents' Testimony:** None.

**Opponents' Testimony:**

02:13:30        Mona Jamison, Montana Land Reliance  
**EXHIBIT (nah40a10)**  
02:18:29        Rock Ringling, Montana Land Alliance  
**EXHIBIT (nah40a11)**  
02:21:54        Gary Forrester, Plum Creek Timber  
02:22:34        Mike Bay, Wolf Creek Rancher  
02:23:45        Jerry Scheid, Ranch, Centennial Valley  
02:27:07        Don Hargrove, Land Trust Board, Consensus Council  
02:28:00        Jerry Wells, Rocky Mountain Elk Foundation  
**EXHIBIT (nah40a12)**  
**EXHIBIT (nah40a13)**     Fact Sheet submitted by Dan McLean, Helena  
                         attorney

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**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

02:28:56        REP. BARRETT  
02:30:22        REP. HARRIS  
02:39:51        REP. JONES  
02:41:03        REP. JOPEK

**Closing by Sponsor:**

02:42:40        REP. RICK MAEDJE (R), HD 2, closed the hearing on  
                         HB 675.  
  
02:45:23        Break  
03:08:40        Resume

**EXECUTIVE ACTION ON HB 714**

03:09:58        **Motion/Vote:** REP. BROWN moved that HB 714 BE  
                         TABLED. Motion carried 17-1 by voice vote with  
                         REP. BARRETT voting no and REPS. CLARK, BIXBY and  
                         WANZENRIED voting by proxy.

**EXECUTIVE ACTION ON HB 700**

03:11:43        **Motion:** REP. BROWN moved that HB 700 DO PASS.  
  
03:12:47        **Motion:** REP. BARRETT moved that HB 700 BE  
                         AMENDED.

**Discussion:**

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03:13:38        REP. BARRETT

03:13:58        **Vote:** Motion carried by voice vote.

03:14:25      Motion/Vote:   REP. BARRETT moved that HB 700 DO PASS AS AMENDED. Motion carried unanimously by voice vote with REPS. BIXBY, CLARK and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 609

03:15:14      Motion:   REP. BROWN moved that HB 609 DO PASS.

03:15:21      Motion:   REP. HARRIS moved that HB 609 BE AMENDED.

Discussion:

03:17:09      REP. FUREY

03:18:09      REP. ROSS

03:19:43      REP. DICKENSON

03:22:32      REP. BARRETT

03:22:48      REP. FUREY

03:23:00      Substitute Motion:   REP. FUREY made a substitute motion that #3 and #6 be segregated from the vote on the Amendment to HB 609. The vote on the Amendment to HB 609 will be on Sections 1, 2, 4, 5, 7 & 8. The motion passed by voice vote.

03:26:00      Motion:   REP. GUTSCHE moved that HB 609 DO PASS AS AMENDED.

03:26:17      Motion:   REP. PETERSON moved that HB 609 BE AMENDED and that section #3 and #6 be included.

Discussion:

03:27:11      Tim Hall, Attorney for Department of Natural Resources and Conservation

03:28:49      Vote:   Motion carried by voice vote with REP. FUREY voting no.

03:29:05      Motion/Vote:   REP. JOPEK moved that HB 609 DO PASS AS AMENDED. Motion carried unanimously by voice vote with REPS. BIXBY, CLARK and WANZENRIED voting by proxy.



EXECUTIVE ACTION ON HB 622

03:29:56        Motion:    REP. BROWN moved that HB 622 DO PASS.

Discussion:

03:30:00        REP. HARRIS

03:30:49        Substitute Motion:    REP. BROWN made a substitute motion that HB 622 BE TABLED.

Discussion:

03:31:03        REP. EVERETT

03:31:54        Vote:    Motion carried 11-7 by voice vote with REPS. BARRETT, EVERETT, HEINERT, JONES, LAMBERT, MAEDJE, and PETERSON voting no and REPS. BIXBY, CLARK and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 666

03:33:13        Motion:    REP. LAMBERT moved that HB 666 DO PASS.

Discussion:

03:33:36        REP. HARRIS

03:35:00        REP. DICKENSON

03:35:31        Vote:    Motion carried 17-1 by voice vote with REP. BROWN voting no and REPS. BIXBY, CLARK and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 675

03:36:28        Motion:    REP. MAEDJE moved that HB 675 DO PASS.

03:38:16        Motion:    REP. MAEDJE moved that HB 675 BE AMENDED.  
EXHIBIT (nah40a14)

Discussion:

03:39:05        REP. GUTSCHE

03:39:20        REP. ROSS

03:39:34        Substitute Motion/Vote:    REP. MAEDJE made a substitute motion that HB 675 BE TABLED.  
Substitute motion carried 12-6 by voice vote with REPS. BARRETT, BROWN, EVERETT, HEINERT, JONES and MAEDJE voting no and REPS. CLARK, BIXBY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 698

03:40:56        Motion:    REP. BROWN moved that HB 698 DO PASS.

03:41:03        Motion:    REP. LAMBERT moved that HB 698 BE  
AMENDED.

03:41:37        REP. LAMBERT withdrew the motion to amend without  
objection.

03:42:05        Motion/Vote:    REP. HARRIS moved that HB 698 BE  
AMENDED. Motion carried by voice vote.

03:42:36        Motion/Vote:    REP. BARRETT moved that HB 698 DO  
PASS AS AMENDED. Motion carried by voice vote with  
REPS. BIXBY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 591

03:44:18        Motion:    REP. JOPEK moved that HB 591 DO PASS.

03:44:27        Motion:    REP. JOPEK moved that HB 591 BE AMENDED.  
EXHIBIT (nah40a15)

Discussion:

03:44:58        Joe Kolman, Legislative Services Division

03:46:42        Vote:    Motion carried by voice vote.

03:46:59        Motion:    REP. JOPEK moved that HB 591 DO PASS AS  
AMENDED.

Discussion:

03:47:07        REP. DICKENSON

03:47:47        REP. BROWN

03:48:52        REP. MAEDJE

03:49:26        REP. LAMBERT

03:50:30        Carey Hegreberg, Montana Contractors Association

03:52:04        REP. JOPEK

03:52:41        REP. MAEDJE

03:54:07        REP. LAMBERT

03:54:56        Neil Harrington, Department of Environmental  
Quality

03:56:33        REP. JOPEK

03:56:55        REP. MAEDJE

03:58:19        REP. BROWN

03:58:59        REP. JOPEK

03:59:29        REP. BROWN

03:59:51        REP. JOPEK

04:00:10        Vote:    Motion carried 15-3 by voice vote with  
REPS. BARRETT, EVERETT, and MAEDJE voting no and  
REPS. BIXBY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 69

04:01:15        Motion:    REP. BARRETT moved that HB 69 DO PASS.

04:01:36        Motion:    REP. BARRETT moved that HB 69 BE AMENDED.  
EXHIBIT (nah40a16)

Discussion:

04:02:10        REP. BARRETT

04:02:26        Joe Kolman, Legislative Services Division

04:03:11        REP. BARRETT

04:04:46        REP. CLARK

04:05:35        REP. HEINERT

04:05:59        REP. DICKENSON

04:07:21        REP. HARRIS

04:07:58        REP. JOPEK

04:08:19        REP. BARRETT

04:09:15        Vote:    Motion carried by voice vote.

04:10:04        Motion:    REP. BARRETT moved that HB 69 DO PASS AS  
AMENDED.

Discussion:

04:10:49        REP. JOPEK

04:11:11        Motion/Vote:    REP. HARRIS moved that HB 69 BE  
AMENDED. Motion carried by voice vote.

EXHIBIT (nah40a17)

04:11:59        Motion:    REP. BARRETT moved that HB 69 DO PASS AS  
AMENDED.

Discussion:

04:12:08        REP. SMALL EASTMAN

04:12:53        CHAIRMAN PETERSON

04:13:21        REP. BROWN

04:13:39        REP. JOPEK

04:13:54        Vote:    Motion carried unanimously by voice vote  
with REPS. BIXBY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 353

04:14:50        Motion:    REP. JOPEK moved that HB 353 DO PASS.

04:15:15        Motion/Vote:    REP. BROWN moved that HB 353 BE  
AMENDED. Motion carried unanimously by voice vote.

04:16:00        Break

04:24:02        Resume

04:24:49        Substitute Motion/Vote:    REP. LAMBERT made a  
substitute motion that HB 353 BE TABLED. Motion  
carried 12-4 by voice vote with REPS. CLARK,  
HARRIS, DICKENSON, and FUREY voting no.

EXECUTIVE ACTION ON HB 470

04:27:20        Motion:    REP. CLARK moved that HB 470 DO PASS.

04:28:09        Motion:    REP. CLARK moved that HB 470 BE AMENDED.  
[EXHIBIT](#) (nah40a18)

Discussion:

04:29:29        REP. BROWN

04:30:41        REP. MAEDJE

04:32:13        Vote:    Motion carried 15-1 by voice vote with REP.  
BARRETT voting no.

04:32:42        Motion:    REP. CLARK moved that HB 470 DO PASS AS  
AMENDED.

04:33:00        Motion:    REP. CLARK moved that HB 470 BE AMENDED.  
[EXHIBIT](#) (nah40a19)

Discussion:

04:35:10        REP. HEINERT

04:36:15        Vote:    Motion carried 11-5 by voice vote with REP.  
DICKENSON, REP. GUTSCHE, REP. HARRIS, REP. JOPEK,  
and REP. SMALL-EASTMAN voting no.

04:36:54        Motion:    REP. CLARK moved that HB 470 DO PASS AS  
AMENDED.

04:37:02        Vote: Motion carried 15-3 by voice vote with  
REPS. LAMBERT, MAEDJE and BARRETT voting no and  
REPS. BIXBY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 545

04:38:40        Motion: REP. MAEDJE moved that HB 545 DO PASS.

04:38:52        REP. MAEDJE withdrew his motion without objection.

EXECUTIVE ACTION ON HB 744

04:40:51        Motion/Vote: REP. MAEDJE moved that HB 744 BE  
TABLED and NOT HEARD in Committee. Motion carried  
unanimously by voice vote.

[EXHIBIT](#)(nah40a20)

EXECUTIVE ACTION ON HB 582

04:42:10        Motion: REP. GUTSCHE moved that HB 582 DO PASS.

Discussion:

04:43:36        REP. BARRETT  
04:43:58        REP. GUTSCHE  
04:44:30        REP. MAEDJE  
04:45:43        REP. EVERETT

04:46:05        Substitute Motion/Vote: REP. EVERETT made a  
substitute motion that HB 582 BE TABLED.  
Substitute motion failed 9-9 by roll call vote  
with REPS. BARRETT, BROWN, EVERETT, HEINERT,  
JONES, LAMBERT, MAEDJE, PETERSON, and ROSS voting  
aye and REPS. BROWN and WANZENRIED voting by  
proxy.

Discussion:

04:47:15        REP. DICKENSON  
04:48:54        REP. HEINERT

04:51:49        Vote: Motion failed 9-9 by roll call vote with  
REPS. BIXBY, CLARK, DICKENSON, FUREY, GUTSCHE,  
HARRIS, JOPEK, SMALL-EASTMAN, and WANZENRIED  
voting aye and REPS. BROWN and WANZENRIED voting  
by proxy.

EXECUTIVE ACTION ON HB 581

04:53:25        Motion:    REP. GUTSCHE moved that HB 581 DO PASS.

Discussion:

04:53:28        REP. GUTSCHE  
04:54:42        REP. HARRIS  
04:55:38        REP. GUTSCHE  
04:55:57        REP. MAEDJE  
04:56:04        REP. BARRETT  
04:56:33        REP. HARRIS  
04:57:44        REP. JONES

04:58:03        Vote:    Motion carried 13-5 by roll call vote with  
                 REPS. BARRETT, BROWN, EVERETT, PETERSON, and ROSS  
                 voting no and REPS. BROWN, CLARK and WANZENRIED  
                 voting by proxy.

EXECUTIVE ACTION ON HB 453

05:00:32        Motion:    REP. FUREY moved that HB 453 DO PASS.

05:00:45        Motion:    REP. FUREY moved that HB 453 BE AMENDED.

Discussion:

05:01:09        REP. HEINERT  
05:01:35        REP. FUREY  
05:02:11        REP. HARRIS  
05:03:03        John Arrigo, Department of Environmental Quality  
05:04:27        REP. LAMBERT  
05:05:27        REP. HARRIS

05:06:09        Vote:    Motion carried by voice vote.

05:06:24        Motion:    REP. FUREY moved that HB 453 DO PASS AS  
                 AMENDED.

Discussion:

05:07:06        REP. HARRIS  
05:08:09        REP. DICKENSON  
05:09:41        REP. MAEDJE  
05:10:14        REP. FUREY  
05:10:36        John Arrigo, Department of Environmental Quality  
05:11:37        REP. HARRIS

05:13:01        **Vote: Motion carried 10-8 by roll call vote with  
REPS. BARRETT, BROWN, EVERETT, JONES, LAMBERT,  
MAEDJE, PETERSON, and ROSS voting no and REPS.  
BROWN and WANZENRIED voting by proxy.**

05:15:13

**ADJOURNMENT**

Adjournment: 9:05 P.M.

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REP. JIM PETERSON, Chairman

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DEBRA POLHEMUS, Secretary

JP/dp

Additional Exhibits:

**EXHIBIT ([nah40aad0.PDF](#))**